

MASSACHUSETTS

Public Employee Retirement Administration Commission

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MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Acting Executive Director

RE: Retroactivity of the Change in Contribution Rates of Dual Members,
Cavanaugh v. MTAERB and CRAB

DATE: September 9, 1999

In PERAC Memo #11/1995, the Commission instructed retirement boards to change the contribution rate of dual members who were contributing at different contribution rates.

This was the result of a 1995 CRAB decision, Woburn v. Crocker, which held that dual members were entitled to the contribution rate that was in effect when they first became a member of a retirement systems in all retirement systems of which they were members. CRAB determined that this decision should only be applied prospectively. The Commission instructed the boards to refund the resulting excess contributions prospectively from the date of the CRAB decision.

The Superior Court in the case of Cavanaugh v. MTAERB and CRAB has now ruled that retirement boards must apply that decision retroactively to the date the member joined the first retirement system. This decision is final and will not be appealed further.

In 1995, all retirement systems refunded any extra contributions from February 3, 1995 until the member's contribution rate was corrected, but did not refund the extra amounts contributed between the date the member became a member of the second retirement system and February 3, 1995. Retirement boards must now refund that amount to affected dual members.

Retirement boards must review their records to find any dual members who were members of two systems before February 3, 1995 and made extra contributions because of their dual membership status. These individuals should be the same individuals whose contribution rates were adjusted in 1995. A payment of the amount of extra deductions made between the date of the start of their dual membership and February 3, 1995 must now be made to those individuals (without interest).

We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.